



## Senate

General Assembly

**File No. 760**

January Session, 2009

Substitute Senate Bill No. 1092

*Senate, April 21, 2009*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING THE CLIENT SECURITY FUND.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1      Section 1. (*Effective from passage*) The amount of any funds  
2      transferred from the Client Security Fund to the General Fund in  
3      accordance with the provisions of subsection (e) of section 12 of public  
4      act 09-2 shall be transferred to the Client Security Fund for the fiscal  
5      year ending June 30, 2009, and no further transfers shall be made from  
6      the Client Security Fund to the General Fund.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
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**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10\$	FY 11 \$
Treasurer	GF - Uncertain: Potential Revenue Loss	\$2 million	0	0

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill: (1) requires any funds transferred from the Client Security Fund to the General Fund under PA 09-2 to be returned to the Client Security Fund; and (2) prohibits any further transfers from the Client Security Fund to the General Fund. Pending a decision by the Superior Court in the class action suit (*Zeldes et al. v. Rell et al.*) brought for all attorneys who have paid into the Client Security Fund since January 1999, the bill's changes could result in a \$2 million revenue loss to the General Fund in FY 09.<sup>1</sup>

The class action suit seeks temporary and permanent injunctive relief from this transfer. The Governor has stipulated that she will not transfer funds in accordance with PA 09-2 until a decision has been rendered in that case. The parties have agreed that a hearing will be held as soon as practicable after the May 22, 2009, deadline for Plaintiffs' reply brief.

### **Background**

The Client Security Fund is established per CGS 51-81d to reimburse individuals who have lost money or property as a result of the

<sup>1</sup> Note that the governor's recommended budget also transfers \$1 million from the Client Security Fund to the General Fund in each year of the 2010-2011 biennium.

dishonest conduct of an attorney practicing law in Connecticut. Revenue to the Fund is generated from a \$110 annual fee (the fee amount is determined by the Superior Court in accordance with CGS 51-81d(a)) imposed on each attorney admitted to practice law in Connecticut and any Judge, Judge Trial Referee, State Referee, Family Support Magistrate, Family Support Referee and Workers' Comp Commissioner. As of Dec 31, 2008, the Fund had a \$7.8 million balance.

***The Out Years***

There is no fiscal impact in the out years.

**OLR Bill Analysis****sSB 1092*****AN ACT CONCERNING THE CLIENT SECURITY FUND.*****SUMMARY:**

This bill returns to the Client Security Fund for FY 09 any funds that were removed from it and deposited in the General Fund under PA 09-2. PA 09-2 authorized the transfer of \$2 million to the General Fund for FY 09 on April 1, 2009.

The bill provides that no further transfers be made from the Client Security Fund to the General Fund.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Client Security Fund***

The law authorizes the Superior Court, under rules adopted by the judges, to create this fund to (1) reimburse claimants for losses caused by an attorney's dishonest conduct in an attorney-client relationship and (2) provide crisis intervention and referral assistance to attorneys who suffer from alcohol or substance abuse or have gambling or behavioral problems. The courts require attorneys to pay an annual fee to the fund (CGS § 51-81d). Court rules implement the fund (Practice Book § 2-68 et seq.).

***Related Court Action***

A group of attorneys, on behalf of themselves and others similarly situated, recently filed a lawsuit seeking an injunction to prohibit the transfer of the \$2 million from the Client Security Fund to the General Fund (*Zeldes et al. v. Rell et al.*, CV-09-4043237-S).

The plaintiffs seek a class action for all attorneys who have paid the

Client Security Fund fee since January 1, 1999, the date that the Judicial Branch took over the fund's control pursuant to statute and court rules. They argue that the transfer of \$2 million required by PA 09-2 to the General Fund to pay state expenses is wholly unrelated to the Client Security Fund's designated purposes and is an "illegal expropriation" that violates the constitutional separation of powers and the plaintiffs' constitutional, statutory, and common law rights.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 37      Nay 0      (04/03/2009)